

CHAPTER 1
ADMINISTRATIVE AND REGULATORY
AUTHORITY

[Prior to 8/26/87, Nursing Board[590] Ch 1]

655—1.1(17A,147,152) Definitions for purposes of nursing board.

“Agency” or “board” means the Iowa board of nursing.

“Board office” means the office of the Iowa Board of Nursing, State Capitol Complex, Des Moines, Iowa 50319.

“Department” means the department of public health.

“License” means a certificate issued to a person to practice as a registered nurse, licensed practical nurse, or advanced registered nurse practitioner under the laws of this state.

“Licensee” means a person who has been issued a certificate to practice as a registered nurse, licensed practical nurse, or advanced registered nurse practitioner under the laws of this state.

“Other states” means any of the United States, District of Columbia, or territories that have jurisdiction over the practice of nursing within their boundaries.

655—1.2(17A,147,152) Severability. Should any rule, paragraph, phrase, sentence, or clause of any chapter of the rules of the board of nursing be declared invalid or unconstitutional for any reason, the remainder of the rules shall not be affected thereby.

655—1.3(17A,147,152) Description and organization of the board.

1.3(1) Description of the board. The board derives its legal authority for regulating and enforcing regulations for nursing education, nursing practice, and continuing education for nurses under the provisions of Iowa Code chapters 147, 147A, 152 and 272C. The mission of the board is to protect the public health, safety and welfare by ensuring that nursing is practiced by at least minimally competent licensed individuals who practice within their authorized scope of practice.

1.3(2) Organization of the board and meetings. The composition of the board is defined in Iowa Code sections 147.14 and 147.19. The board shall:

a. At the last regularly scheduled meeting prior to May 1:

- (1) Elect a chairperson and secretary from its membership to begin serving as officers on May 1.
- (2) Establish standing committees and elect a chairperson for each committee.
- (3) Schedule regular meeting dates through the summer of the following year.
- (4) Hold regularly scheduled meetings in Des Moines, Iowa.

b. Hold special meetings called by the chairperson or upon request of four members of the board to the chairperson or executive director. Special meetings may be held by electronic means in accordance with Iowa Code section 21.8.

c. Make available to the public, the date, time, and location of board meetings.

d. Make available to the public, the date on which board materials are due in the board office for the agenda of regularly scheduled meetings. Materials received three weeks prior to a scheduled board meeting shall be placed on the agenda. Materials from emergency or unusual circumstances may be added to the agenda with the chairperson’s approval.

e. Allow members of the public to be present during board meetings unless the board votes to hold a closed session.

(1) Anyone who has submitted materials for the agenda or whose presence has been requested by the board will be given the opportunity to address the board.

(2) At every regularly scheduled board meeting, time will be designated for “Public Comment.” During the time on the agenda labeled “Public Comment,” anyone may speak for up to two minutes per person. Requests to speak at a later time for two minutes per person when a particular topic comes before the board should be made at the time of “Public Comment” and will be granted at the discretion

of the chairperson. No more than ten minutes will be allotted to public comment at any one time unless the chairperson indicates otherwise.

(3) One who has not asked to address the board during “Public Comment” may be recognized by the chairperson if one raises a hand. Acknowledgment and an opportunity to speak will be at the discretion of the chairperson.

f. Hold a closed session if the board voted to do so in a public vote with an affirmative vote of at least two-thirds if the total board is present or a unanimous vote if less are present.

The board will recognize the appropriate statute allowing for a closed session when voting to go into closed session. Minutes of all discussion, persons present, and action occurring at a closed session will be recorded along with a tape recording of the proceedings. The records shall be stored securely in the board office and shall not be made available for public inspection.

g. Govern its meetings in accordance with Iowa Code chapter 21 and its proceedings by “Robert’s Rules of Order, Revised.”

h. Appoint a full-time executive director who, under the direction of the board, is responsible for the administration of policies and programs of the board and for the operation of the board office. Appointment or termination of appointment of the executive director shall require a majority vote of the entire board.

i. Act on a petition for adoption of rules. Any person may request the promulgation, amendment, or repeal of a rule in accordance with Iowa Code section 17A.7.

(1) The petition shall be submitted in writing to the board office and shall include:

The name and address of the petitioner.

A statement that gives relevant background information, and rationale that support the request.

The specific rule or change requested.

The signature of the petitioner or a duly authorized officer of the petitioner if it is a corporation or other legal entity.

(2) The executive director shall acknowledge receipt of a petition or return a petition not in substantial conformity with this subrule with an explanation of why it does not conform.

(3) The board may decline to initiate rule-making proceedings for any of the following reasons:

Lack of jurisdiction.

Lack of clarity of the issue presented.

Lack of merit.

(4) The board may initiate rule-making proceedings.

j. Adopt, amend, or repeal rules in accordance with Iowa Code sections 17A.3, 17A.4, 17A.5, 17A.6, and 17A.7.

1.3(3) Information. Members of the public may obtain information or submit requests to the board office that relate to regulating and enforcing regulations on nursing education, nursing practice, and continuing education for nurses. Requests for information resulting in legally binding answers require a petition for rule making or a petition for declaratory ruling. See 655—Chapter 8, “Petition for Rule Making”; 655—Chapter 9, “Declaratory Rulings”; and 655—Chapter 10, “Agency Procedure for Rule Making.”

1.3(4) Petition for declaratory rulings. Any person may petition the board for a declaratory ruling as to the applicability of statute, rule, policy statement, decision or order which is under the board’s jurisdiction.

a. The petition shall be submitted in writing to the board office and shall include:

(1) The name and address of the petitioner.

(2) A statement that gives relevant background information and facts that support the request.

(3) A statement that explains the need for a declaratory ruling which may include the statute, rule, policy statement, decision or order in question.

(4) The specific questions presented for declaratory ruling.

(5) The signature of the petitioner or a duly authorized officer of the petitioner if it is a corporation or other legal entity.

b. The executive director shall acknowledge receipt of a petition or return a petition not in substantial conformity with this subrule with an explanation of why it does not conform.

c. The board may decline to issue a declaratory ruling for any of the following reasons:

(1) Lack of jurisdiction.

(2) Lack of clarity of the issue presented.

(3) Lack of merit.

(4) The issue(s) presented is pending resolution by a court or the attorney general.

d. The written response to the petition by the board either in the form of a declaratory ruling or a denial shall be signed by the executive director and sent to the petitioner by certified mail within a reasonable period of time.

e. Declaratory rulings shall be indexed and available for public inspection.

1.3(5) Public hearings. Public hearings shall be held in accordance with Iowa Code section 17A.4, subsection 1, paragraphs “a” and “b” with respect to rule making.

a. A hearing shall be conducted by a presiding officer who shall be a board member or a person designated by the board.

b. The date, time, and location of a public hearing shall be set by the board or presiding officer. Interested persons who have requested a public hearing shall be notified of its date, time, and location.

c. Any person(s) may present written or oral comments pertinent to the administrative rule(s) for which a public hearing has been scheduled.

(1) A person who desires to submit written comments during a public hearing shall submit these comments to the executive director or authorized designee prior to or during a public hearing. Written comments shall be postmarked no later than the date of hearing.

(2) A person who desires to make an oral presentation during a public hearing may submit a request to the board office in advance or at the public hearing. A person who has made a request in advance will be given priority in the sequence of those who make oral presentations. A person who makes an oral presentation may submit a written transcript of the presentation.

d. The authority of the board or presiding officer during the public hearing includes:

(1) Setting a time limit on oral presentations if necessary.

(2) Excluding any person(s) who may be disruptive or obstructive to the public hearing.

(3) Ruling that the oral presentation, written comments or discussion is not pertinent to the public hearing.

(4) Allowing comments from other members of the public.

e. The presiding officer shall:

(1) Open the public hearing.

(2) Appoint the recording secretary.

(3) Appoint a board or staff member to record the hearing by electronic means if desired by the board.

(4) Enter the notice of hearing into the official public record.

(5) Review the administrative rule(s) under adoption, amendment or repeal and provide rationale for the proposed action by the board.

(6) Receive oral presentations.

(7) Receive written comments as a part of the record.

(8) Adjourn the public hearing.

1.3(6) Public records and rosters. Records and rosters shall be available to the public in accordance with Iowa Code chapter 68A and sections 147.8 and 147.43.

a. A request for a roster of licensees shall be submitted in writing to the board office. Upon receipt of a written request, the rules of the board that govern the purchase of the roster shall be sent. The rules shall be accompanied by a form to be signed by the purchaser which denotes that materials or

publications shall not be published in any manner which could be construed by the public to mean that the board or any of its employees supports, endorses, approves, etc. the materials or publications to be disseminated.

(1) A fee shall be assessed the person requesting a roster based on the rate of charge set by the data processing division, office of state comptroller, state of Iowa.

(2) The fee assessed shall be paid directly to the board.

(3) The roster shall not be released until payment has been received.

b. The executive director may authorize the release of a roster of Iowa licensees without cost in the case of any emergency whereby the interest of the public warrants immediate access to health care personnel.

c. State agencies that request a roster of Iowa licensees will be billed directly from the data processing division, office of state comptroller, state of Iowa for this service.

These rules are intended to implement Iowa Code chapters 17A, 147, and 152.

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